

UNITED STATES DISTRICT COURT SOUTHERN
DISTRICT OF NEW YORK

X-----X
JLM COUTURE, INC,

Plaintiff,

v.

HAYLEY PAIGE GUTMAN,

Defendant.

X-----X

Case No.: 20 CV 10575-LTS

**ORDER TO SHOW CAUSE FOR
PRELIMINARY INJUNCTION
AND TEMPORARY
RESTRAINING ORDER**

Upon the motion for a temporary restraining order and preliminary injunction supported by the Declaration of Joseph L. Murphy, sworn to on the 14th day of December, 2020, the Declaration of Svetlana Gryazeva, sworn to on the 13th day of December, 2020, the Declaration of Brittany Noe, sworn to on the 11th day of December, 2020, and the declaration of Sarah M. Matz, Esq. sworn to on the 15th day of December, 2020, together with the exhibits annexed thereto, the memorandum of law of Plaintiff JLM Couture, Inc. (“JLM” or “Plaintiff”), and the pleadings herein, and good and sufficient cause appearing therefore, and the arguments of counsel heard on December 16, 2020, it is hereby:

ORDERED, that the above named defendant, Hayley Paige Gutman (“Gutman”) show cause in a hearing by remote means to be specified, on January 29, 2021, at 9:30 a.m., or as soon thereafter as counsel may be heard, why an order should not be issued pursuant to Rule 65 of the Federal Rules of Civil Procedure as follows:

during the pendency of this action, enjoining Defendant, along with her officers, agents, servants, employees, and attorneys and all other persons who are in active concert or participation with them, from taking any of the following actions:

A.

(i) from making any changes to any of the social media accounts listed in Exhibit 1 (the “JLM HP Social Media Accounts”), including but not limited to changing the name of the handles on the accounts, posting any new content thereto and/or deleting or altering any content located therein, from tagging any other posts, users or accounts, transferring any such accounts from Defendant to any other person except to JLM, or communicating with third parties through same for commercial purposes, without the express written permission of Plaintiff’s chief executive officer, Joseph L. Murphy; and

(ii) from utilizing or taking any action to gain control over any of the JLM HP Social Media Accounts, without the express written permission of Plaintiff’s chief executive officer, Joseph L. Murphy; and

(iii) from taking any action that breaches JLM’s Employment Agreement with Defendant, dated July 13, 2011, together with the amendments and extensions thereto (the “Employment Agreement”), specifically including but not limited to enjoining Defendant from using “Hayley”, “Paige”, “Hayley Page Gutman”, “Hayley Gutman”, “Hayley Page” or any derivative thereof, including misshayleypaige (collectively the “Designer’s Name”), trademarks in the Designer’s Names including but not limited to the trademarks identified on Exhibit 2 (the “Trademarks”), or any confusingly similar marks or names in trade or commerce, without the express written permission of Plaintiff’s chief executive officer, Joseph L. Murphy; and

(iv) using any of the Designer’s Names, Trademarks or any confusingly similar term to endorse, advertise or promote the products and/or services of herself or others directly or

indirectly, including on social media and/or in television or media appearances, without the express written permission of Plaintiff's chief executive officer, Joseph L. Murphy; and

(v) from using, or authorizing third parties to use, the Designer's Names, Trademarks or any confusingly similar term, without the express written permission of Plaintiff's chief executive officer, Joseph L. Murphy; and

B. ordering that within 24 hours of this order and during the pendency of this action, Defendant shall deliver to JLM's attorneys the current login credentials, including the current username and password for the Main IG Account, the Pinterest account and the TikTok account with the handle @misshayleypaige, and take any action necessary to enable JLM to regain access and control of said accounts including linking the accounts to one of JLM's email addresses and/or phone numbers and/or other social media accounts as requested; and

IT IS ORDERED, that, sufficient reason having been shown therefor, pending the hearing and determination of JLM's application for a preliminary injunction, pursuant to Rule 65, Fed. R. Civ. P.,

A. Defendant, along with her officers, agents, servants, employees, and attorneys and all other persons who are in active concert or participation with them, enjoined from taking any of the following actions:

(i) from making any changes to any of the JLM HP Social Media Accounts, including but not limited to changing the name of the handles on the accounts, posting any new content thereto and/or deleting or altering any content located therein, from tagging any other posts, users or accounts, transferring any such accounts from Defendant to any other person except to JLM, or communicating with third parties through same for commercial purposes, without the express written permission of Plaintiff's chief executive officer,

Joseph L. Murphy; and

(ii) from utilizing or taking any action to gain exclusive control over, any of the JLM HP Social Media Accounts, without the express written permission of Plaintiff's chief executive officer, Joseph L. Murphy; and

(iii) from taking any action that breaches JLM's Employment Agreement by using any of the Designer's Name, Trademarks, or any confusingly similar marks or names in trade or commerce, without the express written permission of Plaintiff's chief executive officer, Joseph L. Murphy; and

(iv) using any of the Designer's Names, Trademarks or any confusingly similar term to endorse, advertise or promote the products and/or services of herself or others directly or indirectly, including on social media and/or in television or media appearances, without the express written permission of Plaintiff's chief executive officer, Joseph L. Murphy; and

(v) from using, or authorizing third parties to use, the Designer's Names, Trademarks or any confusingly similar term, without the express written permission of Plaintiff's chief executive officer, Joseph L. Murphy; and

B. ordering that within 24 hours of this order and during the pendency of this action, Defendant shall deliver to JLM's attorneys the current login credentials, including the current username and password for the Main IG Account, the Pinterest account and the TikTok account with the handle @misshayleypaige, and take any action necessary to enable JLM to regain access and control of said accounts including linking the accounts to one of JLM's email addresses and/or phone numbers and/or other social media accounts as requested; and

IT IS HEREBY ORDERED that security in the amount of \$200,000.00 be posted by the Plaintiff

by the 21st day of December, 2020 at 2:00 p.m. of that day; and it is further

ORDERED that personal service of a copy of this order and Plaintiff's moving papers upon the Defendant or Defendant's counsel by federal express on or before December 21, 2020, shall be deemed good and sufficient service thereof; and it is further

ORDERED, that answering papers be served on Adelman Matz P.C., 780 Third Avenue, 14th Floor, New York, New York 10017, with a copy by email to sarah@adelmanmatz.com, and filed with the Court on or before 4:00 p.m. on the 12th day of January, 2021, and that Plaintiff's reply papers be served on Defendants' counsel, with a copy by email, and filed with the Court on or before 4:00 p.m. on the 22nd day of January 2021. Courtesy copies of all submissions shall be provided for Chambers via the email address specified on the Court website for use for Chambers communications during the COVID-19 emergency situation.

All direct testimony shall be in the form of affidavits filed with the parties' principal submissions. Any live testimony at the preliminary injunction hearing will be limited to cross-examination. The parties are directed to meet and confer and, by 12:00 p.m. noon on January 27, 2021, file with the Court (1) a consolidated and bookmarked (to indicate exhibit numbers) pdf containing all of the exhibits to be relied upon for the hearing (cross-referenced to the submissions in which they were originally filed), and (2) a joint submission identifying the witnesses to be presented for cross-examination, the parties' agreed protocols for presentation of testimony remotely, and the time proposed to be allocated for each witness, and the time proposed to be allocated for argument.

DATED: New York, New York

December 16, 2020

Time issued: 5:04pm

/s/ Laura Taylor Swain

UNITED STATES DISTRICT JUDGE

EXHIBIT 1

JLM OWNED SOCIAL MEDIA ACCOUNTS FOR ALL HAYLEY PAIGE BRANDS

Brand	Platform	Handle	Account Link
Hayley Paige	Instagram	misshayleypaige	https://www.instagram.com/misshayleypaige/
Hayley Paige	Facebook	Hayley Paige / HayleyPaigeBridal	https://www.facebook.com/HayleyPaigeBridal
Hayley Paige	Pinterest	Hayley Paige / hayleypaigejlm	https://www.pinterest.com/hayleypaigejlm/_saved/
Hayley Paige	Pinterest	misshayleypaige	https://www.pinterest.com/misshayleypaige/_saved/
Hayley Paige	Youtube	Miss Hayley Paige	https://www.youtube.com/channel/UCJR_76xqVd6ihrlUm3AL-qg?view_as=subscriber
Hayley Paige	Twitter	hayleypaige_jlm	https://twitter.com/HayleyPaige_JLM
Blush by Hayley	Instagram	blushbyhayleypaige	https://www.instagram.com/blushbyhayleypaige/
Blush by Hayley	Facebook	BlushbyHayleyPaige	https://www.facebook.com/BlushbyHayleyPaige
Blush by Hayley	Pinterest	blushbyHP	https://www.pinterest.com/blushbyHP/_created/
Blush by Hayley	Twitter	BlushbyHP	https://twitter.com/BlushbyHP
Hayley Paige Occasions	Instagram	hayleypaigeoccasions	https://www.instagram.com/hayleypaigeoccasions/
Hayley Paige Occasions	Facebook	hpoccasions	https://www.facebook.com/hpoccasions/
Hayley Paige Occasions	Twitter	Jim_H_Occasions	https://twitter.com/Jim_H_Occasions
La Petite Hayley Paige	Instagram	lapetitehayleypaige	https://www.instagram.com/lapetitehayleypaige/
La Petite Hayley Paige	Facebook	lapetitehayleypaige	https://www.facebook.com/lapetitehayleypaige

Holy Matrimoji App (All Brands)	Instagram	holymatrimoji	https://www.instagram.com/holymatrimoji/
Holy Matrimoji App (All Brands)	Facebook	HolyMatrimoji	https://www.facebook.com/HolyMatrimoji
All Brands	TikTok	misshayleypaige	https://vm.tiktok.com/ZMJqYv9S6/

EXHIBIT 2

Trademark	Country	Registration No.	Registration Date	Classes
BLUSH BY HAYLEY PAIGE	United States of America	6141381	09/01/2020	25 Int.
HAYLEY PAIGE	United States of America	5858534	09/10/2019	14 Int.
HAYLEY PAIGE	United States of America	4161091	06/19/2012	25 Int.
HAYLEY PAIGE + DESIGN	United States of America	5368112	01/02/2018	25 Int.
HAYLEY PAIGE + DESIGN	United States of America	5858703	09/10/2019	14 Int.
HAYLEY PAIGE OCCASIONS	United States of America	5276982	08/29/2017	25 Int.
JUST GOT PAIGED	United States of America	5728141	04/16/2019	41 Int.
LA PETITE HAYLEY PAIGE	United States of America	5698436	03/19/2019	25 Int.
LA PETITE HAYLEY PAIGE + DESIGN	United States of America	5698444	03/12/2019	25 Int.
OCCASIONS BY HAYLEY PAIGE	United States of America	4914471	03/08/2016	25 Int.